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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,197	06/05/2000	Jack O. Cartner	CRT 2 0017	8327

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Jay F Moldovanyi  
Fay Sharpe Fagan Minnich & McKee LLP  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Applicant No.	Applicant(s)
	09/587,197	CARTNER, JACK O.
	Examiner	Art Unit
	Meredith C Petravick	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 May 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5,7,9-14,17-25,38-40 and 48-60 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 8-25 and 40 is/are allowed.

6) Claim(s) 1-3,5,7,9,10,13,14,17,38,39 and 49-60 is/are rejected.

7) Claim(s) 4,11 and 12 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 6/5/00 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9-10, 13-14, 17, 38-39, 49-55 and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thagard et al. in view of the prior art as picture in Figure. 2A of the specification

Thagard discloses the claimed invention including:

- a deck (172) having at least three sides and at least one side wall
- at least one cutting blade (240) mounted on the deck
- a guard assembly (360) that includes an actuating member/ holding member (380) and a guard (366) with a straight wall on the front of the mower
- a movable rubber flap (364, Column 8, line51-52) depends from the guard on a different plane
- a hinge 163 extending along the guard assembly

Thagard also show a plane of the deck being parallel to a plane of the mower in its entirety. The plane defined by part 367 is entirely parallel to part 374 on the mower deck as seen in Fig. 3.

However, Thagard fails to disclose providing the guard along two of said at least three sides of the deck with two of the sides being normal and a third side being at an obtuse angle to the others.

As shown in Figure 2A, a mower deck is known that has a guard that extends at an obtuse angle along two sides of the deck.

It would have been obvious to one having ordinary skill in the art at the time the invention made to put the guard with its hinge of Thagard along two of the side of the deck at an obtuse angle as shown in the prior art Figure 2A, in order to provide better access to the mower blade when cutting brush.

In regards to claims 2, 7, 10 and 52-53, the actuating member is a hydraulic cylinder and piston (382). The actuating member is mounted to the deck and guard spaced from a hinge.

In regards to claims 3, 14 and 17, Thagard discloses a flap (190) on the mower deck.

3. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thagard in view of Figure 2A as applied to claim 49 above, and further in view of the MoTrim Boom Mower Brochure, cited by applicant.

The combination of Thagard and Figure 2A discloses the claimed invention except for the mower head being attached to a towing vehicle by a hitch instead of a boom arm.

Like the combination, the MoTrim Boom Mower Brochure discloses a mower head with a guard used to cut brush. Unlike the combination, the mower head is attached to a boom.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to alternately attach the mower head of the combination to a boom as in the

MoTrim Boom Mower Brochure, as one commonly known equivalent alternative means of moving a mower head.

***Allowable Subject Matter***

4. Claims 18-25 and 40 are allowed.
5. Claims 4 and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 10/17/02 have been fully considered but they are not persuasive.

In regards to the rejection of the claims as being unpatentable over Thaguard in view of Prior Art Figure 2A and in regards to the rejection of the claims as being unpatentable over Gullet in view of Thaguard, applicant argues that these combinations do not disclose the newly added limitation. Contrary to applicant's argument, the combinations do disclose the new limitation as pointed out in detail in the rejections above and with regards to the attached drawing.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-308-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

MCP  
June 26, 2002